

REMARKS/ARGUMENTS

I. STATUS OF THE PENDING CLAIMS

Claims 10-29 are pending in the application. Claims 10-16, 19, 21, 22 and 25-29 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,460,140 to Schoch et al. ("Schoch"). Claims 17, 18, 20, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Schoch in view of U.S. Patent Publication No. 2002/0129265 to Watanabe ("Watanabe").

II. REJECTIONS UNDER 35 U.S.C. § 102(e)

Claims 10-16, 19, 21, 22 and 25-29 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Schoch. Applicants respectfully submit that these rejections are traversed on the basis of the following arguments.

A rejection of the claims under 35 U.S.C. § 102(e) requires a showing that each and every claim limitation be identically disclosed in a single prior art reference, either expressly or under the principles of inherency. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984). If even one claim limitation is not described in the reference, the claim is patentable over the reference.

Each of independent claims 10 and 25-28 are directed to limitations including: accessing a unique hardware identification code from a computer-readable data medium associated with the computer system, the code *accessed from a portion of the data medium that is readable but not writeable*; and generating an identification number from the hardware identification code and software component license information *by means of an encoding algorithm*. The Examiner incorrectly cites Schoch as allegedly disclosing these, and other, claim limitations.

Schoch, however, does not disclose generating an identification number from the hardware identification code and the license information *by means of an encoding algorithm*. According to Schoch,

The software library combines . . . data with the system identification number to generate a "registration key." The user then contacts the license registration database at AnchorSoft by employing a web browser or other well-known modem software. The registration key is encrypted using the registration encryption key, and is then submitted to the license registration database. After successful verification of the registration key, the license database generates a license key, which consists of the [product identification number], the [system identification number] and the options, *and encrypts it using the product verification encryption key.* The registration library receives the license key and stores it on the user's computer.

(Schoch, at col. 4 lines 3-12) (emphasis added). First, as demonstrated by the above language, Schoch apparently encrypts an already generated license key, thereby refuting the Examiner's assertion that the encryption itself generates the key. Second, as explained in Schoch, the encryption is allegedly employed "[f]or security and verification purposes." (Schoch, at col. 4 lines 29-35). Clearly, then, the Examiner mistakes the basic encryption of data for secure online transmission with the encoding algorithm of the claimed invention.

Similarly, claims 22 and 25 contain limitations relating to a decoding algorithm which the Examiner confuses with decryption. Not only does the claimed decoding algorithm differ from decryption generally, but nowhere in Schoch is the concept of decryption ever mentioned.

Also contrary to the Examiner's assertions, Schoch does not disclose a method whereby the unique hardware identification code is accessed from a portion of the data medium that is *readable but not writeable*. Nowhere does Schoch require access of hardware information from read-only portions of a data medium, nor does Schoch even distinguish non-writable portions of a data medium from its writeable portions. Schoch, in fact, proffers the possibility that hardware information can be used *provided it does not change frequently*, a scenario in conflict with read-only data, which, by its very nature, does not change at all.

Many of the Examiner's arguments for rejecting the dependent claims are also respectfully submitted to be incorrect. For example, the Examiner alleges that Schoch discloses the limitation of claim 21 wherein the computer system comprises a control unit. Schoch, however, makes no mention of any such control unit. The passage of Schoch cited by the Examiner merely relates to examples of end user hardware-specific system identification

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information. Nothing in this passage, or any other, describes controlling authorization to use a software component of a *control unit*.

For at least these reasons, claims 10, and claims 11-16, 19, 21 and 22 which depend from it, as well as claims 25-28, and claim 29, which depends from claim 28, are respectfully submitted to be patentable over Schoch.

III. REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 17, 18, 20, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Schoch in view of Watanabe.

The Examiner rejects claims 23 and 24 on the basis that Watanabe allegedly discloses a method of checking license information prior to executing software. First, that claims 23 and 24 are separate claims illustrates the distinction between checking for unauthorized use *during startup* of the software component and checking for unauthorized use *periodically during use* of the software component. Second, the performance of a check *prior* to software execution cannot be said to disclose either the performance of a check *during startup of or periodically during use of software*. Therefore, claims 23 and 24 are respectfully submitted to be patentable over Schoch in view of Watanabe.

Moreover, claims 17, 18, 20, 23 and 24 all depend from claim 10. As discussed above, Schoch does not disclose all the limitations of claim 10. Because the office action does not cite Watanabe as disclosing, nor does Watanabe disclose, any of the limitations of claim 10, claims 17, 18, 20, 23 and 24, which depend from claim 10, are not unpatentable over Schoch in view of Watanabe.

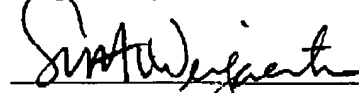
CONCLUSION

Claims 10-29 are pending in the application. Applicants submit that all of the pending claims, for the reasons set forth above, recite patentable subject matter and are in condition for allowance. Reconsideration and allowance are therefore respectfully requested.

The Commissioner is authorized to charge any required fee to Deposit Account No. 23-1703.

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Respectfully submitted,



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